IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No.592 of 2006
Date of Decision:06.03.2007

The Commissioner of Income tax-I, Chandigarh

.....Appellant

Vs.

M/s Punjab State Industrial Development Corporation Ltd., Chandigarh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. Vivek Sethi, Advocate for Mr. Sanjiv Bansal, Advocate for the appellant- revenue.

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Rajesh Bindal, J.

The revenue has approached this Court by filing the present appeal raising the following substantial question of law arising out of order passed by the Income Tax Appellate Tribunal, Chandigarh Bench `A' (for short, `the Tribunal') in I.T.A. No.1/Chandi/2004 dated 25.5.2006 in respect of assessment year 1999-2000:-

> "Whether on the facts and circumstances of the case, the Hon'ble ITAT was right in law in allowing deduction of Rs.70,42,581/- on account of interest received on delayed payment on sale of shares received by the assessee from various collaborators in view of the fact that in section 2 of the Interest-tax Act, 1974, for the purpose of chargeability, interest is defined as "interest on Loan and Advances made in India" and also in view of the fact that the scope of section 5 of Interest-tax Act, 1974 is very wide and only specific items excluded are interest on loans and advances given to other institutions and interest on loans given to any other cooperative society, engaged in the carrying on of the business of banking?"

The Tribunal while deciding the point in issue has referred to and relied upon the order passed by it earlier in the case of the assessee for the assessment year 1995-96. It is not disputed by learned counsel for the revenue that the appeal filed by the revenue against the order of the Tribunal pertaining to assessment year 1995-96, bearing I.T.A. No.465 of 2006 – **The Commissioner of Income Tax-I, Chandigarh v. M/s Punjab State**

Industrial Development Corporation, Chandigarh has been dismissed by this Court on 13.2.2007 with the following observations:-

> "From a perusal of the above definition of term `interest' it is crystal clear that what is chargeable to tax as interest under the Act is interest on loans and advances. This definition being in aid to charging section deserves a strict interpretation. The amount which is sought to be added in the interest income of the assessee in the present case is not on account of interest income on any loan or advances disbursed by the assessee to the loanees rather the said amount was invested by the assessee as equity participation in various industrial concerns. It is only on account of delayed payment, if any, on account of purchase of those shares by the promoters that interest on the outstanding amount was charged. The amount so charged cannot, in any way, be termed as interest on the loans or advances. The amount invested in equity participation in an industrial concerns cannot be characterized as loan or advance in terms of Section 2(7) of the Act. The contention of the counsel for the Revenue that transaction in question, if not strictly a loan, can be termed as a quasi-loan, as interest is chargeable on account of delayed payment of amount, has to be recorded and rejected. While rejecting the appeal of the Revenue, the Tribunal has rightly relied upon the judgment of Kerala High Court in **Commissioner of Income-Tax Vs. State Bank of Travancore**, **(1997) 228 ITR 40** wherein also issue involved was similar to the issue involved in the present appeal and answered in favour of the assessee."

For the reasons stated in I.T.A. No.465 of 2006, we do not find that any question of law arises in the present appeal. Accordingly, the same is dismissed.

(RAJESH BINDAL)
JUDGE

March 06, 2007 **(M.M.KUMAR)**
renu **JUDGE**